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Attorneys for Defendant  
MX Technologies, Inc.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CALVIN LINCOLN, individually and on behalf )  
of all others similarly situated, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
MX TECHNOLOGIES, INC., )  
 )  
Defendant. )  
 )  
 )  
 )  
 )

CASE NO.: 2:23-cv-00806-MCE-KJN

**STIPULATION AND ORDER TO  
EXTEND DEADLINE TO  
CONDUCT RULE 26(F)  
CONFERENCE**

**STIPULATION**

Plaintiff Calvin Lincoln and Defendant MX Technologies, Inc. (collectively, the “Parties”) respectfully jointly request that the Court (1) vacate the deadline set forth in the Court’s Initial Pretrial Scheduling Order to conduct a Rule 26(f) conference, and (2) set the Rule 26(f) conference deadline to a date 14 days after Defendant files an answer to Plaintiff’s then-operative complaint. The Parties submit this request pursuant to Rule 16(b)(4) of the Federal Code of Civil Procedure, which authorizes amendments to a scheduling order for good cause and with the Court’s consent. In support of this joint request, the Parties provide the following background information for the Court’s consideration:

Plaintiff filed his Complaint on April 28, 2023. Dkt. No. 1. Following a meet-and-confer session regarding Defendant’s anticipated Rule 12(b)(6) motion to dismiss, Plaintiff has decided to file an Amended Complaint. Pursuant to the Parties’ stipulation, Magistrate Judge Newman set a deadline of July 28, 2023 for Plaintiff to file his Amended Complaint, and Defendant must respond to the Amended Complaint by August 18. Dkt. No. 19. If Defendant files a motion to dismiss, briefing on that motion shall be concluded by September 22, 2023. *See id.* (deadlines for opposition and reply briefing).

On July 17, 2023, this case was reassigned to this Court. The Court entered an Initial Pretrial Scheduling Order, Dkt. No. 18, which specifies a deadline of 60 days within service of the complaint for the Parties to meet-and-confer as required by Rule 26(f). The Parties respectfully submit that good causes exists here to move back the Parties’ Rule 26(f) conference deadline to a date 14 days after Defendant files an answer. Doing so will promote economy and significantly increase the Rule 26(f) conference’s usefulness to the litigation, given that Plaintiff will be filing an Amended Complaint (containing different allegations that will moot part of the original Complaint). With the allegations and pending legal claims in flux, the Parties have limited ability to conduct an effective Rule 26(f) conference, complete initial disclosures, or develop an effective discovery plan. Postponing the conference until after Defendant’s answer will thus improve the quality of the conference, save resources, and promote judicial economy.

1 In the event Defendant files a motion to dismiss, the requested adjournment will also  
2 enable the Parties to conduct the Rule 26(f) conference with the benefit of the Court's ruling on  
3 that motion. The Court's guidance on the proper scope and focus of the claims will assist the  
4 Parties in formulating a discovery plan tailored to the issues in dispute.

5 Accordingly, the Parties respectfully jointly request that the Court, on good cause shown,  
6 vacate the deadline to conduct a Rule 26(f) conference stated in the Court's Initial Pretrial  
7 Scheduling Order, Dkt. No. 18, and reset that deadline to 14 days after Defendant files an answer  
8 to Plaintiff's then-operative complaint.

9  
10 Dated: July 20, 2023

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16 *Attorney for Defendant*  
17 *MX Technologies, Inc.*

18 Dated: July 20, 2023

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24 *Attorney for Plaintiff*  
25 *Calvin Lincoln*

**ORDER**

Having considered the Parties' Stipulation to Extend Deadline to Conduct Rule 26(f) Conference, and good cause appearing, IT IS HEREBY ORDERED that the deadline to conduct a Rule 26(f) conference that is stated in the Initial Pretrial Scheduling Order is VACATED. The Parties shall conduct a Rule 26(f) conference no later than 14 days after Defendant files an answer to Plaintiff's then-operative complaint.

IT IS SO ORDERED.

Dated: July 24, 2023

  
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MORRISON C. ENGLAND, JR.  
SENIOR UNITED STATES DISTRICT JUDGE